

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

CHI LIN,	§	
	§	
Petitioner,	§	
	§	
VS.	§	CIVIL ACTION NO. H-07-2992
	§	
MICHAEL CHERTOFF, <i>et al.</i> ,	§	
	§	
Respondents	§	

**ORDER**

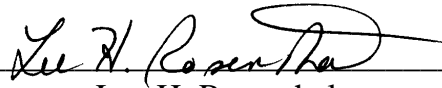
The respondents, Michael Chertoff, *et al.*, have filed a motion to dismiss the petition for writ of habeas corpus filed by Chi Lin on the basis that he is properly detained under 8 U.S.C. § 1231(a). Lin filed his petition for a writ of habeas corpus in September 2007. He asserted that he had been detained more than six months since his final removal order; that his removal is not likely in the reasonably foreseeable future; that no special circumstances justify his continued detention; and that his continued detention violates substantive due process.

On November 30, 2005, an immigration judge found Lin removable and ordered him removed to China under 8 U.S.C. § 1182(a)(7)(A)(i)(I). The Board of Immigration Appeals affirmed the decision, dismissing Lin's appeal on March 20, 2006. On May 16, 2006, the Fifth Circuit Court of Appeals stayed Lin's removal pending a review of the petition for review he had filed. That review concluded with a denial of the petition on September 24, 2007. Under the statute, if an alien is ordered removed, that order is judicially reviewed, and

a court stays the removal pending the review, the 90-day removal period begins on the “date of the court’s final order.” 8 U.S.C. § 1231(a)(1)(B)(ii). The Fifth Circuit’s final order issued on September 24, 2007. Despite the length of time Lin has been detained, the 90-day period after the court’s final order has not expired.

The petition for habeas corpus is denied on the current record.

SIGNED on December 20, 2007, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal  
United States District Judge